

Meeting Date: Tuesday 27 September 2016
Location: Council Chambers, Level 1A, 1 Pope Street, Ryde
Time: 7.00pm

*Council Meetings will be recorded on audio tape for minute-taking purposes
as authorised by the Local Government Act 1993. Council Meetings will also be webcast.*

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LATE ITEM

8 RESIGNATION OF COUNCILLOR CHUNG

Report prepared by: Manager - Risk, Audit and Governance
File No.: CLM/16/1/1/2 - BP16/1233

REPORT SUMMARY

This report is to advise Council, that Councillor Craig Chung has formally resigned as an East Ward Councillor effective from Thursday, 29 September 2016.

Council is required in accordance with Section 292 of the Local Government Act 1993 (The Act), to hold a By-Election for the vacancy in the Ward, within a three (3) month period. However, Section 294 of the Act provides for Councils to apply to the Minister for Local Government for a vacancy not to be filled, where the vacancy is less than 18 months from the next ordinary election of Councillors. As the next ordinary election of Council is expected in September 2017, it is recommended that Council write to the Minister to seek approval not to fill this vacancy.

This recommendation is made given the recent decision of Justice Moore to reject the appeals made by both Lane Cove and Hunter's Hill Councils. While there is a likelihood of an appeal, the timing of the proclamation on the proposed Merger is now regarded as imminent.

This action will also save Council the considerable cost of the by-election which is estimated (based on the 2015 East Ward By-Election costs) as being \$135,000 (direct cost for 2015 By-Election \$130,760).

As required under Section 285(b) of the Local Government General Regulation, the Acting General Manager has advised the Electoral Commission, the Office of Local Government and Local Government NSW of this vacancy.

RECOMMENDATION:

- (a) That Council note the resignation of Councillor Craig Chung and thank Councillor Chung for his contribution and service to Council and the City of Ryde community in his term as a Councillor.
- (b) That Council endorse the proposed recommendation to apply to the Minister for Local Government, in accordance with Section 294 of the Local Government Act, 1993 to not fill the vacancy in the East Ward as the vacancy is within 18 months before the next ordinary election of Councillors.

ATTACHMENTS

- 1 Councillor Craig Chung - Resignation - 22 September 2016
- 2 Section 294 - Local Governance Act, 1993 - Dispensing with By-Elections

ITEM 8 (continued)

Report Prepared By:

John Schanz
Manager - Risk, Audit and Governance

Report Approved By:

Angela Jones-Blayney
Acting Chief Operating Officer

ITEM 8 (continued)

Discussion

On 22 September 2016, Councillor Craig Chung formally advised the Mayor of his resignation from his role as a Councillor for the East Ward of the City of Ryde, effective in seven days (effective date 29 September 2016), and as a result, created a Councillor vacancy, as defined by Section 234(1)(b) of the Local Government Act. This resignation is attached as **ATTACHMENT 1**.

As required by Section 285(b) of the Local Government Regulation 2005, Council has notified the Office of Local Government, the NSW Electoral Commission and Local Government NSW, of Councillor Chung's resignation that this vacancy had occurred.

Councillors are advised that Section 294 of the Local Government Act, (outlined in **ATTACHMENT 2**), states that a By-Election must take place if the vacancy occurs more than 18 months before the date specified for the next ordinary election. However, this section of the Act also provides for Councils to apply to the Minister for Local Government for a vacancy not to be filled, where the vacancy is less than 18 months from the next ordinary election of Councillors. As the next ordinary election of Council is expected in September 2017, it is recommended that Council make an application to the Minister to approve the vacancy not be filled.

This recommendation is made given the recent decision of Justice Moore to reject the appeals made by both Lane Cove and Hunter's Hill Councils. While there is a likelihood of an appeal, the timing of the proclamation on the proposed Merger is now regarded as imminent.

This action would also save Council the considerable cost of the by-election which is estimated (based on the 2015 East Ward By-Election costs) as being \$135,000 (direct cost for 2015 By-Election \$130,760 (NSW Electoral Commission) in addition to the associated Council staff cost).

Councillor Chung has served as a City of Ryde Councillor since being elected in the September 2012 Council elections. He has served on a number of Committees of Council as well as Advisory Committees and has also represented Council on the Joint Regional Planning Panel.

Financial Implications

Adoption of the recommendation will have no financial impact.

Options

Council could consider holding a By-election in the East Ward at an approximate direct cost of \$135,000 (based on the cost of the 2015 By-Election). Under Section 292 of the Act, this election would have to be held within three months of the vacancy occurring. This option is not recommended for the reasons outlined in the report.

ITEM 8 (continued)

ATTACHMENT 1

From: Craig Chung [<mailto:craig@craigchung.com.au>]
Sent: Thursday, 22 September 2016 12:18 PM
To: The Mayor; Bill Pickering; Roy Newsome
Subject: Resignation

Dear Mr Mayor

Following my election to the City of Sydney Council and the declaration of the poll yesterday, I hereby tender my resignation as a Councillor for the City of Ryde effective 7 days hence.

Clr Craig Chung

Sent from my SAMSUNG Galaxy S7 on the Telstra Mobile Network



City of Ryde | Customer Service Centres
RYDE | 1 Pope Street, NSW 2112 (Within Top Ryde City shopping centre)
NORTH RYDE | Binary Centre, Building 0, Level 1, 3 Richardson Place, NSW 2113

Let's Connect  [Facebook](#) |  [Twitter](#) |  [Instagram](#) |  [YouTube](#) | [eNews](#)



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ITEM 8 (continued)

ATTACHMENT 2

LOCAL GOVERNMENT ACT 1993

294 Dispensing with by-elections

- (1) This section applies if a casual vacancy occurs in the office of a councillor, including a mayor elected by the electors of an area, within 18 months before the date specified for the next ordinary election of the councillors for the area.
- (2) If such a casual vacancy occurs in the office of a councillor (but not the office of a mayor elected by the electors), the Minister may, on the application of the council:
 - (a) order that the vacancy not be filled, or
 - (b) order the holding on a stated day of a by-election to fill the vacancy and revoke any earlier order made under paragraph (a).
- (3) If such a casual vacancy occurs in the office of a mayor elected by the electors, the casual vacancy is to be filled by the Governor appointing to the vacant office a councillor nominated by the council.
- (4) If the council does not nominate a councillor for the purposes of subsection (3), the Governor may appoint one of the councillors to the vacant office.